IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 316 OF 2003

IN

SUMMARY SUIT NO. 2492 OF 2000

V. M. Mathrani ..Plaintiff

versus

Indrakumar Patodia & Anr. ..Defendants

Ms. Shamim Lakdawala i/b. M/s. Kukreja & Co. for the Plaintiff.

None for the Defendants.

CORAM : D. G. DESHPANDE,J.

DATE : 6TH DECEMBER,2004.

P.C. :

. Heard learned Advocate for the Plaintiff. Nobody is present for the Defendants though reply is filed to the summons for judgment.

. The suit of the plaintiff is based on bill of exchange. It is for an amount of Rs.50,000/= with interest. The plaintiff had given notice Exhibit 'B' to the defendants. There was a reply by Rani Sati Trading Company i.e. defendant no. 1. It is an admission of liability because time to pay

is requested for. According to the plaintiff the defendants also made part payment of Rs.10,000/= as stated in paragraph 3 of the plaint. In affidavit in reply the defendants have stated that winding up order has been passed against defendant no.2. The defence that is raised is that there is delay in taking out the summons for judgment, that the suit is not maintainable, that the plaintiff is a money lender, and interest is claimed. There is virtually no defence. Reply is fully in negative. There is no specific defence raised as to why the Plaintiff should make a false claim and what is the case of the defendants on merits and therefore looking to the facts, as per the statement of the defendant No.1 winding up order is passed against defendant No.2, leave to defend the suit is granted to defendant no.1 on depositing sum of Rs.40,000/= (Rupees Forty Thousand), in this court, within a period of six weeks from today.

. In the event of the defendant no.1 depositing the said amount, the suit to be transferred to the list of Commercial Causes, written statement or points of defence to be filed within a period of 12 weeks from today, affidavit of documents or list of documents within two weeks thereafter. Discovery or inspection of documents within two weeks thereafter. Suit to be placed on

regular board for hearing thereafter.

. In the event the defendant No.1 depositing the amount of Rs.40,000/= in the court as aforesaid, the Prothonotary and Senior Master to invest the said amount with a Nationalised Bank, initially for a period of three years and to renew the same thereafter for suitable periods until further orders of the court. Advocates for the plaintiff to follow the investment order with the Prothonotary & Senior Master.

. If the defendant no.1 fails to deposit the aforesaid amount in the court, liberty to the plaintiff to have the suit set down forthwith for exparte hearing. The Summons for Judgment is disposed of accordingly.

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